

These amendments are intended to implement Iowa Code chapters 8A and 20

The following amendments are proposed:

Item 1. Amend rule 621–8.1(20) as follows:

**621—8.1(20) Registration report Requirements.** Before the agency certifies an employee organization as the exclusive representative of a bargaining unit, the employee organization shall electronically file a registration report, constitution and bylaws, and an annual report. Once certified, the certified employee organization shall thereafter file an annual report as required by rule 621–8.4(20) and a registration report and constitution and bylaws whenever its constitution or bylaws are amended as required by rules 621– 8.2 and 8.3(20).

~~**8.1(1) When filed.** Before an employee organization may be certified as the exclusive representative of a bargaining unit, the employee organization shall have filed a registration report with the board.~~

~~**8.1(2) Form and content.** The registration report shall be in a form prescribed by the board. The registration report shall be accompanied by two copies of the employee organization's constitution and bylaws. A filing by a national or international of its constitution and bylaws shall be accepted in lieu of a filing of such documents by each subordinate organization, provided that such national or international constitution and bylaws conform to the requirements of the Act.~~

Item 2. Rescind rule **621–8.2(20)** and adopt the following **new** rule 621–8.2(20):

**621—8.2(20) Registration report.**

**8.2(1) Time of filing.** An employee organization shall file a complete registration report:

- a. Before the employee organization may be certified as the exclusive representative of a bargaining unit; and
- b. Once certified, whenever changes or amendments are made to the employee organization's constitution or bylaws, or
- c. When the certified employee organization files a petition to amend its certification.

**8.2(2) Form and content.** The registration report shall be on the form prescribed by the agency.

**8.2(3) Method of filing.** The registration report shall be electronically filed pursuant to 621–chapter 16.

Item 3. Rescind rule **621–8.3(20)** and adopt the following **new** rule 621–8.3(20):

**621—8.3(20) Constitution and bylaws.**

**8.3(1) Time of filing.** An employee organization shall file its constitution and bylaws:

- a. Before the employee organization may be certified as the exclusive representative of a bargaining unit; and
- b. Once certified, whenever changes or amendments are made to the employee organization's constitution or bylaws, or
- c. When the certified employee organization files a petition to amend its certification.

**8.3(2) Form and content.**

a. The constitution or bylaws shall provide that:

(1) Accurate accounts of all income and expenses shall be kept, and an annual financial report and an audit shall be prepared, such accounts shall be open for inspection by any member of the organization, and loans to officers and agents shall be made only on terms and conditions available to all members.

(2) Business or financial interests of its officers and agents, their spouses, minor children, parents or otherwise, that conflict with the fiduciary obligation of such persons to the organization shall be prohibited.

(3) Every official or employee of an employee organization who handles funds or other property of the organization, or trust in which an organization is interested, or a subsidiary organization, shall be bonded in an amount and form determined by the agency.

(4) Periodic elections by secret ballot shall be conducted subject to recognized safeguards concerning the equal rights of all members to nominate, seek office, and vote in such elections; that individual members have the right to participate in the affairs of the organization; and there are fair and equitable procedures in disciplinary actions.

b. The employee organization's national or international constitution and bylaws shall be accepted in lieu of the employee organization's constitution and bylaws provided that such national or international constitution and bylaws conform to the requirements of Iowa Code section 20.25.

**8.3(3) Method of filing.** The constitution and bylaws shall be electronically filed pursuant to 621—chapter 16.

Item 4. Rescind rule **621—8.4(20)** and adopt the following new rule 621—8.4(20):

**621—8.4(20) Annual report.**

**8.4(1) Time of filing.** An employee organization shall file a complete annual report:

a. Before the employee organization may be certified as the exclusive representative of a bargaining unit in which case the report may be filed concurrently with an election petition; and

b. Once certified, within 90 days following the certified employee organization's fiscal year end; and

c. When the certified employee organization files a petition to amend its certification.

**8.4(2) Form and content.** The annual report shall be on the form prescribed by the board and shall contain:

a. The names, addresses, email addresses, and telephone numbers of the organization, any parent organization or organizations with which it is affiliated, the principal officers and all representatives.

b. The name, address, email address, and telephone number of its local agent for service of process.

c. A general description of the public employees the organization represents or seeks to represent.

d. The amounts of the initiation fee and monthly dues members must pay.

e. A pledge, in a form prescribed by the board, that the organization will comply with the laws of the state and that it will accept members without regard to age, race, sex, religion, national origin or physical disability, as provided by law.

f. A financial report and audit.

The financial report shall contain, at a minimum, the following information: cash balance from the previous year; a listing of sources and amounts of income; an identified listing of disbursements; and a closing balance. For the first annual report filed by an employee organization, the financial report shall reflect the last completed fiscal year of the organization or, in the case of a new organization, the last completed quarter or quarters of the current fiscal year. For annual reports filed mid-fiscal year with petitions for amendment of certification, the financial report shall reflect the last completed quarter or quarters of the current fiscal year.

The audit shall consist of a statement that the financial report has been reviewed and found to be true and accurate. The audit must be signed by an auditing committee or a person or persons who hold no office in the employee organization and who did not prepare the financial report.

g. The name(s) of the person(s) required to be bonded pursuant to rule 621–8.5, the amount of the bond, and the name of the corporate surety company that issued the bond(s).

**8.4(3) Method of filing.** The annual report shall be electronically filed pursuant to 621–chapter 16.

Item 5. Rescind rule **621–8.5(20)** and adopt the following **new** rule 621–8.5(20):

**621–8.5(20) Bond required.** Every person required by Iowa Code section 20.25(3) “c” to be bonded shall be bonded to provide protection against loss by reason of act of fraud or dishonesty on the part of such person, directly or through connivance with others.

**8.5(1) Bond requirements.** The bond of each such person shall be fixed at the beginning of the employee organization’s fiscal year and shall be in an amount of not less than 10 percent of the funds handled by such person or their predecessor or predecessors, if any, during the preceding fiscal year, but in no case less than \$2,000 nor more than \$500,000. If the employee organization or the trust in which an employee organization is interested does not have a preceding fiscal year, the amount of the bond shall not be less than \$2,000. Such bonds shall have a corporate surety company as surety thereon.

**8.5(2) Prohibitions.** Any person who is not covered by such bonds shall not be permitted to receive, handle, disburse or otherwise exercise control of the funds or other property of an employee organization or of a trust in which an employee organization is interested. No such bond shall be placed through an agent or broker or with a surety company in which any employee organization or any officer, agent, shop steward or other representative of an employee organization has any direct or indirect interest.

Item 6. Rescind rule **621–8.6(20)** and adopt the following **new** rule 621–8.6(20):

**621–8.6(20) Trusteeships.**

**8.6(1) Application and establishment.** Prior to establishing a trusteeship, an organization shall file an application to establish or administer a trusteeship over a subordinate employee organization certified by the agency. The organization shall attach a copy of its constitution and bylaws to its application.

The Board will review the organization’s constitution and bylaws and permit the establishment of a trusteeship if the trusteeship procedures are reasonable.

Trusteeships shall be established or administered by an organization over a subordinate employee organization only in accordance with the constitution or bylaws of the organization which has assumed trusteeship over the subordinate body and for the purpose of

correcting corruption or financial malpractice, assuring the performance of collective bargaining agreements or other duties of a bargaining representative, restoring democratic procedures or otherwise carrying out the legitimate objectives of the employee organization.

**8.6(2) Reports.** Every organization which assumes trusteeship over any subordinate employee organization shall file with the agency within 30 days after the imposition of any such trusteeship, and semiannually thereafter, a report, signed by its president and treasurer or corresponding principal officers, as well as by the designated trustees of such subordinate employee organization, containing the following information:

- a. The name and address of the subordinate employee organization;
- b. The date of the establishment of the trusteeship;
- c. A detailed statement of the reason for the establishment or the continuation of the trusteeship; and
- d. The nature and extent of participation by the membership of the subordinate employee organization in the selection of delegates to represent such employee organization in regular or special conventions or other policy-determining bodies and in the election of officers of the organization which has assumed trusteeship over the employee organization.

The initial report of the establishment of the trusteeship shall include a full and complete account of the financial condition of the subordinate employee organization as of the time trusteeship was assumed over it.

**8.6(3) Continuing duty to report.** During the continuance of a trusteeship, the organization which has assumed trusteeship over a subordinate employee organization shall file on behalf of the subordinate employee organization all reports required by this chapter. Such reports shall be signed by the president and treasurer or corresponding principal officers of the organization which has assumed such trusteeship and the designated trustees for the subordinate employee organization.

**8.6(4) Method of filing.** The application and any required reports shall be electronically filed pursuant to 621–chapter 16.

Item 7. Adopt the following new rule 621–8.7(20):

**621–8.7(20) Failure to comply with employee organization requirements.** The agency shall not certify an employee organization or may revoke the existing certification(s) of an employee organization for failure to file a registration report, its constitution and bylaws, or an annual report or otherwise fail to comply with Iowa Code section 20.25.

**8.7(1) Upon completion of a valid election.** If an employee organization fails to file a registration report, constitution and bylaws, or annual report or otherwise comply with these rules or Iowa Code section 20.25 within 90 days following the completion of a valid election, the agency will not certify the employee organization and will serve notice of noncertification. The agency may grant extensions of time for good cause.

**8.7(2) Failure to file reports once certified.** If an employee organization fails to file a registration report, constitution and bylaws, or annual report or otherwise comply with these rules and Iowa Code section 20.25, the agency may revoke the certification of the employee organization. When the organization fails to comply following notice of its noncompliance, the agency will order the employee organization to show cause why its certification should not be revoked and set the matter for hearing.

**8.7(3) Complaints by affected parties.** A complaint that any employee organization has

engaged in or is engaging in any practice which constitutes a violation of Iowa Code section 20.25 may be submitted in writing to the board by any affected person. Upon receipt of a complaint, the agency shall serve a copy upon the employee organization by certified mail, return receipt requested. The board shall conduct a preliminary investigation of the alleged violation. In conducting the investigation, the board may require the production of evidence, including affidavits and documents. If the investigation shows there is no reasonable cause to believe a violation has occurred, the complaint shall be dismissed and the parties notified. If the investigation shows reasonable cause to believe a violation has occurred, the board shall notify the parties. If the parties are unable to agree on an informal settlement after notification of reasonable cause, the board shall schedule the complaint for hearing.

Item 8. Amend rule 621–11.1(19A,20) as follows:

**621—11.1(19A 8A,20) Notice of appeal rights.** ~~Whenever~~ When the director of the Iowa department of ~~personnel~~ administrative services (hereinafter referred to as the director) issues a response to an employee ~~on a matter appealable to the public employment relations board (hereinafter referred to as the board) pursuant to Iowa Code section 8A.415 19A.14 as amended by 1988 Iowa Acts, House File 2399, section 1, in which the director and the response does not grant the relief sought by the employee, the response shall include~~ director shall also provide notice to the affected employee of appeal procedures and time limitations governing the appeal. that the employee may appeal the response by filing an appeal with the Public Employment Relations Board within 30 days of the date of the director's response.

Item 9. Amend rule 621—11.2(19A,20) as follows:

**621—11.2(19A 8A,20) Filing of appeal.**

~~11.2(1) Appeals shall be filed with the board on the State Employee Grievance and Disciplinary Action Appeal Form.~~

~~11.2(2)~~ **11.2(1) Grievances.** Grievances. An employee, except an employee covered by a collective bargaining agreement ~~which that~~ provides otherwise, who has filed a grievance and is not satisfied with the director's response, ~~to the employee's grievance~~ may file an appeal with the board agency. ~~if the grievance alleged either a violation of Iowa Code chapter 19A or the rules of the department of personnel.~~ Such appeal must be filed within 30 calendar days following the date the director's response was issued, ~~or should have been issued.~~ However, if no response was issued by the director within 30 calendar days following the filing of the third step grievance with the director, the employee may consider the grievance denied and file his or her appeal with the agency, or may await the director's response and, if not satisfied, file an appeal within 30 days following the date the response is issued.

~~11.2(3)~~ **11.2(2) Disciplinary appeals.** Disciplinary appeals. A nonprobationary merit system employee as described in Iowa Code section 8A.412, except an employee covered by a collective bargaining agreement, who is discharged, suspended, demoted, or otherwise receives a reduction ~~reduced~~ in pay, and who appeals the action to the director and is not satisfied with the director's response, may file an appeal with the agency board. Such appeal must be filed within 30 calendar days following the date the director's response was issued, ~~or should have been issued.~~ However, if no response was issued by the director within 30 calendar days following the filing of the third step grievance with the director, the employee may consider the grievance denied and

file his or her appeal with the agency, or may await the director's response and, if not satisfied, file an appeal within 30 days following the date the response is issued.

**11.2(3)** Appeals shall be electronically filed pursuant to 621–chapter 16.

~~**11.2(4)** The board shall serve copies of the appeal upon the director by ordinary mail.~~

Item 10. Rescind rule **621–11.3(19A,20)** and adopt the following **new** rule 621–11.3(8A,20):

**621–11.3(8A,20) Service of appeal.** The agency shall serve a copy of the appeal upon the director by ordinary mail in the manner specified in rules 621–2.15(20) and 16.10(20).

Item 11. Rescind rule **621–11.4(19A,20)** and adopt the following **new** rule 621–11.4(8A,20):

**621–11.4(8A,20) Content of appeal.**

**11.4(1)** The appeal shall contain the following:

- a. Name, address, telephone number, and email address of the appealing employee;
- b. Name of agency/department by which the appealing employee is/was employed;
- c. A brief statement of the reasons for the appealing employee's dissatisfaction with the director's response;
- d. A statement of the requested remedy;
- e. The name, address, telephone number, and email address of the appealing employee's representative, if any;
- f. Signature of the appealing employee or employee's representative; and
- g. In the case of a disciplinary action appeal filed pursuant to Iowa Code section 8A.415(2), a statement of whether the employee requests a hearing open to the public.

**11.4(2)** Completion of the State Employee Grievance and Disciplinary Action Appeal Form shall constitute compliance with all subrule 11.4(1) requirements.

Item 12. Rescind rule **621–11.5(19A,20)** and adopt the following **new** rule 621–11.5(8A,20):

**621–11.5 (8A,20) Content of director's response to the appeal.**

**11.5(1)** The director shall have 15 days from the date of service of the employee's appeal in which to file a motion or answer with the agency.

**11.5(2)** The motion or answer shall contain the following:

- a. The names of the appealing employee and the employing agency/department;
- b. The name, address, telephone number, and email address of the employing agency/department's representative;
- c. A copy of the original grievance and first, second, and third step responses issued; and
- d. Signature of the employing agency/department's representative.

**11.5(3)** The director's motion or answer shall be electronically filed pursuant to 621–chapter 16.

Item 13. Rescind rule **621–11.6(19A,20)** and adopt the following **new** rule 621–11.6(8A,20)

**621–11.6 (8A,20) Right to a hearing.** An employee appealing a grievance pursuant to Iowa Code section 8A.415(1) has a right to a hearing, which is open to the public. An employee appealing disciplinary action pursuant to Iowa Code section 8A.415(2) has a right to a hearing,

which is closed to the public unless the employee requests a hearing open to the public. Hearings will otherwise be conducted in accordance with chapter 2 of these administrative rules.

Item 14. Amend rule **621–11.7(19A,20)** as follows:

**621–11.7 (19A 8A,20) ~~Finality of decision~~ Final decisions.** ~~The administrative law judge's proposed decision shall become final unless a timely petition for review is filed with the board or the board, on its own motion, determines to review the proposed decision.~~

**11.7(1)** When a majority of the board presides at the reception of the evidence in a grievance or disciplinary action appeal, the decision of the board is the final decision of the agency.

**11.7(2)** When a majority of the board does not preside at the reception of the evidence in a grievance or disciplinary appeal, the presiding officer shall make a proposed decision that becomes the final decision of the agency without further proceedings unless:

**a.** There is a petition for the board's review filed within 20 days of the filing of the proposed decision, or

**b.** The board, within 20 days of the filing of the proposed decision, determines to review the decision on its own motion.

Item 15. Rescind rule **621–11.8(19A,20)**, and adopt the following **new** rule 621–11.8(8A,20): as follows:

**621–11.8 (8A,20) Review by board.** Proceedings on the board's review of the proposed decision shall be in accordance with 621–chapter 9.

Item 16. Amend rule **621–11.9(19A,20)** as follows:

**621–11.9 (19A 8A,20) Other rules.** Any matters not specifically addressed by the rules contained in this chapter shall be governed by the general provisions of the rules of the agency public employment relations board.

Item 17. Rescind and reserve rule **621–11.10(19A,20)**.

Item 18. Amend **621–chapter 11**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapters ~~19A~~8A and 20.